



THE CITY OF NEW YORK
LAW DEPARTMENT
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December 17, 2021

VIA ECF

Honorable Barbara C. Moses
United States Magistrate Judge
Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl St.
New York, New York 10007

MEMO ENDORSED

Re: Reed v. City of New York, et al., 20-CV-08352 (JPC) (BCM)

Your Honor:

I am a Senior Counsel in the office of Georgia M. Pestana, Corporation Counsel of the City of New York, assigned to the defense of the above-referenced matter.¹ I write respectfully, on behalf of defendant City, to request a forty-five day extension of time to respond to both the Court's Valentin Order and plaintiff's complaint, from December 18, 2021 to February 1, 2022. This office also requests a corresponding *sua sponte* enlargement of time for individually named defendant Officer Dennis to answer or otherwise respond to the complaint. This office, further, respectfully withdraws our previous request to stay this case. (See ECF No. 27). This is the second request for an extension of time to respond to the Valentin Order and to the complaint. Plaintiff's current location is presently unknown and as such, defendant has not been able to contact him to ascertain his position on this request.²

On October 18, 2021, this office filed a letter motion requesting the Court stay this case in its entirety, as two of the three arrests indicated in plaintiff's complaint, at the time,

¹ This case has been assigned to Assistant Corporation Counsel Victoria Carballo, who is presently awaiting admission to the Bar and is handling this matter under supervision. Ms. Carballo may be reached directly at (332) 323-0803, or by email at vcarball@law.nyc.gov.

² Upon information and belief, plaintiff has been released from Department of Correction's custody on or around December 6, 2021. To date, plaintiff has not updated his address and contact information on the docket.

were still pending in criminal court. (See ECF No. 26). On October 25, 2021, the Court directed plaintiff to respond to the request for a stay, in writing, by November 24, 2021. (See ECF No. 27). Since that request was made, service was executed on the City and Officer Dennis on October 28, 2021. (See ECF Nos. 29, 30). Proof of executed service was not docketed until November 15, 2021, for the City, and November 16, 2021, for Officer Dennis. (See ECF Nos. 29, 30). This office has not discussed with Officer Dennis the manner of service, and we make no representation herein as to the adequacy of service. On November 18, 2021, this office respectfully requested an extension of time to respond to the complaint and the Court granted this office's request and directed both this office's response to the Court's Valentin order and the City and Officer Dennis's responses to the complaint due on December 18, 2021. (See ECF Nos. 27, 31, 32). Since that time, this office has been monitoring plaintiff's open criminal cases, and anticipated renewing our request for the Court to stay this case. However, upon information and belief, plaintiff's pending criminal cases have recently closed. Accordingly, this office respectfully withdraws our October 18, 2021, letter motion requesting the Court to stay this case in its entirety and requests a forty-five day extension of time to respond to plaintiff's complaint.

On December 6th, 2021, upon information and belief, plaintiff pled guilty to charges stemming from his July 15, 2020 and August 3, 2020 arrests, which had been the two open cases alleged in plaintiff's complaint.³ While plaintiff's criminal trial was pending, this office was unable to access district attorney and criminal court files regarding the pending matters or speak to the officers involved in plaintiff's arrest. Now that plaintiff's criminal matters are, ostensibly, closed, this office will require those documents in order to further investigate the allegations. Thus, this office respectfully requests an extension of time to request conduct the necessary investigations that will allow us to respond to the plaintiff's complaint and the Valentin Order.⁴ This may also allow plaintiff time to update his contact information with the Court and counsel. Furthermore, in the interest of judicial economy, we hope that the Court may, *sua sponte*, extend Officer Dennis's time to respond to the complaint, as well.

Therefore, defendant City respectfully requests that the Court grant an enlargement of time of forty-five days to respond to the Court's Valentin Order and to answer or otherwise respond to plaintiff's complaint, and *sua sponte* grant a corresponding enlargement of forty-five days to defendant Officer Dennis to answer or otherwise respond to plaintiff's complaint.

³ As of December 15, 2021, this office has been in communication with the Bronx District Attorney's Office to inquire as to plaintiff's criminal court case's status.

⁴ Additionally, this office anticipates making a partial motion to dismiss, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, for failure to state a claim upon which relief can be granted, following confirmation of plaintiff's criminal trial dispositions.

Thank you for your consideration herein.

Respectfully submitted,

/s/

John Schemitsch

Senior Counsel

Special Federal Litigation Division

cc: **BY FIRST-CLASS MAIL**

Calvin Reed

Plaintiff Pro Se

B&C No. 8852000017

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Application GRANTED. The City's time to respond to the complaint and the Court's *Valentin* order is EXTENDED to **February 1, 2022**. Officer Dennis's time to respond to the complaint is likewise EXTENDED to **February 1, 2022**. No further extensions will be granted absent compelling circumstances. The Clerk of Court is respectfully directed to close Dkt. No. 26 as moot and mail a copy of this Order to the *pro se* plaintiff, who is directed to promptly update his address on the docket of this action.



Barbara Moses

United States Magistrate Judge

December 17, 2021